

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

United States of America,

Plaintiff,

v.

\$25,880 in U.S. Currency,

Defendant.

Civil Action No.: 1:18-CV-327 [GLS/CFH]

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America brings this verified complaint for forfeiture *in rem* against the above-captioned assets (the “defendant currency”) and alleges as follows:

NATURE OF THE ACTION

This is an action *in rem* brought pursuant to 21 U.S.C. § 881(a)(6) and 18 U.S.C. §§ 981(a)(1)(A) and (a)(1)(C), and Rule G of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions. Forfeiture is sought of the defendant currency as money furnished or intended to be furnished in exchange for a controlled substance, proceeds traceable to such an exchange, or money used or intended to be used to facilitate a violation of 21 U.S.C. §§ 841, 846, or 18 U.S.C. § 1956.

THE PARTIES

1. Plaintiff is the United States of America.
2. The defendant currency is \$25,880, which is in the custody of the United States.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355.

4. This Court has *in rem* jurisdiction over the defendant currency pursuant to 28 U.S.C. § 1335(b).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1335 and 1339.

FACTS

6. On June 25, 2018, Donovan Rhoden pled guilty in the United States District Court for the Northern District of New York to an 11-count felony information charging him with cocaine trafficking, money laundering, and bankruptcy fraud.

7. Between 2005 and 2017, Rhoden created, owned, and operated various businesses, including Talk to People LLC and UPYOURSCOREONLINE.COM Inc. (collectively, the “businesses”). He also opened and controlled various bank accounts for his businesses, including accounts at Bank of America, TD Bank, and SEFCU. Between January 2014 and July 2017, Rhoden’s business accounts at those three institutions alone held over \$750,000.

8. On April 7, 2017, Rhoden met with an FBI undercover employee who was posing as a cocaine trafficker looking to launder drug proceeds. During that meeting, Rhoden described how he had previously “clean[ed]” money for another “drug dealer.”

9. On April 23, 2017, Rhoden again met with the undercover to show him real estate in the Capital Region in which the undercover could “invest” to “clean” his money.

10. During the April 23 meeting, Rhoden agreed to launder \$15,000 of the undercover’s purported cocaine trafficking proceeds. The undercover then handed Rhoden a bag containing \$15,000 cash, told Rhoden that the money constituted proceeds from the sale of cocaine, and stated that Rhoden could keep “fifteen hundred” as commission. Rhoden agreed to write several checks from his business accounts to launder the funds, and he subsequently did just that.

11. On May 25, 2017, Rhoden again met with the undercover and agreed to launder an additional \$30,000 of purported cocaine trafficking proceeds in exchange for a \$3,000 commission. Rhoden later laundered those funds as well.

12. On June 21, 2017, Rhoden met with the undercover and asked the undercover to “front” him three kilograms of cocaine so that Rhoden could give it to his friend to sell.

13. On July 22, 2017, the FBI executed a search warrant at Rhoden’s home. During the search, agents seized the defendant currency from inside of a safe.

14. Rhoden subsequently filed an administrative claim with the FBI for the defendant currency swearing, under penalty of perjury, that the seized money “was not part of an illegal activity and was not obtained through ill-gotten gains.” According to Rhoden’s declaration, the defendant currency seized from the safe had been “legally earned by [Rhoden] as follows”: (a) \$6,503.77 came from a personal injury settlement; (b) approximately \$15,000 came from the sale of real property; and (c) “[t]he remaining portion of the seized assets consists of [Rhoden’s] personal savings” and was “not obtained through ill-gotten gains.”

15. The has FBI traced the serial numbers of the money seized from Rhoden’s safe, and has determined that several of the bills that constitute the defendant currency that Rhoden swore “was not part of an illegal activity and was not obtained through ill-gotten gains” was provided to Rhoden by the FBI in connection with the above-described laundering operation.

16. Rhoden is scheduled for sentencing in this Court on June 12, 2019.

CONCLUSION

17. As required by Supplemental Rule G(2)(f), the facts set forth above support a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, probable cause exists to believe that the defendant currency constitutes: (a) money furnished or

intended to be furnished by a person in exchange for a controlled substance in violation of the Controlled Substances Act; (b) proceeds traceable to such an exchange; or (c) money used or intended to be used to facilitate a violation of the Controlled Substances Act.

WHEREFORE, pursuant to Supplemental Rule G, plaintiff the United States of America, respectfully requests that the Court:

- a) Issue a warrant of arrest *in rem*, in the form submitted with this complaint;
- b) Direct any person having any claim to the defendant currency to file and serve their verified claims and answers as required by 18 U.S.C. § 983(a)(4) and Supplemental Rule G;
- c) Enter judgment declaring the defendant currency to be forfeited and condemned to the use and benefit of the United States; and
- d) Award such other and further relief to the United States as it deems proper and just.

Dated: March 15, 2019

Respectfully Submitted,

GRANT C. JAQUITH
United States Attorney

By: /s/ Adam J. Katz
Adam J. Katz
Assistant United States Attorney
Bar Roll No. 515310

VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF ALBANY)

Andrew J. Zubik, being duly sworn, deposes and states:

I am a Special Agent with the Federal Bureau of Investigation. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers.

Dated this 15 day of March, 2019.

Andrew J. Zdibik, Special Agent
Federal Bureau of Investigation

Federal Bureau of Investigation

Federal Bureau of Investigation

Sworn to and subscribed before me this 5 day of March, 2019.

Notary Public

JESSICA FERREDAY
Notary Public, State of New York
No. C116673843
Qualified in Rensselaer County
Commission Expires January 8, 2013

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Albany
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Adam J. Katz, Assistant U.S. Attorney (518) 431-0247
United States Attorney's Office, 445 Broadway,
Albany, New York 12207

DEFENDANTS
\$25,880 in U.S. Currency

County of Residence of First Listed Defendant Albany
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)
Joseph Granich, Esq., Granich Law Firm, (518) 862-7181
21 Colvin Avenue, Albany, New York, 12206

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	PROPERTY RIGHTS	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Trademark	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 875 Customer Challenge
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 840 Trademark	12 USC 3410
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	FEDERAL TAX SUITS	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 950 Constitutionality of State Statutes
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21 USC 881, 18 USC 981

VI. CAUSE OF ACTION

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Gary L. SharpeDOCKET NUMBER **1:18-CR-175**

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/15/2019

s/Adam J. Katz

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

WAIVED

APPLYING IFP

JUDGE

GLS

MAG. JUDGE

CFH